

## REMARKS

The Examiner has rejected Claims 1-24 under 35 U.S.C. 102(e) as being anticipated by Le Pennec et al. (U.S. Patent No. 6,976,271). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove to each of the independent claims. Specifically, applicant has amended the independent claims to at least substantially include the subject matter of dependent Claim 2.

With respect to the independent claims, the Examiner has relied on Col. 9, line 10 – Col. 10, line 27; Col. 12, lines 43-64; Col. 13, lines 49-57; Col. 14, lines 44-59; and Col. 15, lines 17-26 from the Le Pennec reference to make a prior art showing of applicant's claimed "comparing said one or more attributes determined from said computer file with corresponding stored attributes of said specific known malware free computer file (see this or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that the excerpts from Le Pennec relied upon by the Examiner merely disclose that "[a] Certificate is associated with this file on the File Server (103)" where "[t]he Certificate indicates that the file has been processed by a list of anti-virus programs (also referred to as anti-virus checkers), and is virus free" (Col. 7, lines 43-47 – emphasis added). Further, Le Pennec discloses that "[e]ach file is identified by its characteristics (303), which can be one or a combination of the following information: the source system which has originated the file, the file name, the file type, optionally, the file size, [and] optionally, the file CRC (a file signature)" (Col. 10, lines 40-46 – emphasis added). Additionally, Le Pennec discloses that "the anti-virus criteria associated with the file... [is retrieved (402)] from the Virus-free Certificate Rules Table (403)" where "[s]aid record is identified using its "File Source", "File Name", and "File Type" fields, and using information retrieved from the received file (its name, its type, and its source which is typically identified by the IP address of the system which originated the file)" (Col. 12, lines 43-53 – emphasis added).

However, the mere disclosure of using file characteristics such as source system, file name, file type, file size, and file CRC to identify the file in order to retrieve the anti-virus criteria associated with the file, as in Le Pennec, fails to suggest “comparing said one or more attributes determined from said computer file with corresponding stored attributes of said specific known malware free computer file” (emphasis added), as claimed by applicant. Thus, using the file characteristics to identify the file, as in Le Pennec, fails to even suggest “corresponding stored attributes of said **specific known malware free computer file**” (emphasis added), in the manner as claimed by applicant.

Further, with respect to the independent claims, the Examiner has relied on Col. 9, line 10 – Col. 10, line 27; Col. 12, lines 43-64; Col. 13, lines 49-57; Col. 14, lines 44-59; and Col. 15, lines 17-26 from the Le Pennec reference to make a prior art showing of applicant’s claimed technique “wherein if said attributes match, then confirming said computer file as being said specific known malware free computer file.”

Applicant respectfully asserts that the excerpts from Le Pennec relied upon by the Examiner merely disclose that “[a] Certificate is associated with this file on the File Server (103)” where “[t]he Certificate indicates that the file has been processed by a list of anti-virus programs (also referred to as anti-virus checkers), and is virus free” (Col. 7, lines 43-47 – emphasis added). Further, Le Pennec discloses that “[e]ach file is identified by its characteristics (303), which can be one or a combination of the following information: the source system which has originated the file, the file name, the file type, optionally, the file size, [and] optionally, the file CRC (a file signature)” (Col. 10, lines 40-46 – emphasis added). Additionally, Le Pennec discloses that “the anti-virus criteria associated with the file... [is retrieved (402)] from the Virus-free Certificate Rules Table (403)” where “[s]aid record is identified using its “File Source”, “File Name”, and “File Type” fields, and using information retrieved from the received file (its name, its type, and its source which is typically identified by the IP address of the system which originated the file)’ (Col. 12, lines 43-53 – emphasis added).

However, the mere disclosure of using file characteristics such as source system, file name, file type, file size, and file CRC to identify the file in order to retrieve the anti-virus criteria associated with the file, as in Le Pennec, fails to suggest a technique “wherein if said attributes match, then confirming said computer file as being said specific known malware free computer file” (emphasis added), as claimed by applicant. Thus, retrieving the anti-virus criteria only after using the file characteristics to identify the file, as in Le Pennec, simply cannot meet “wherein if said attributes match, confirming said computer file as being said specific known malware free computer file” (emphasis added), in the manner as claimed by applicant.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the above reference, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has amended each of the independent claims to further distinguish applicant’s claim language from the above reference, as follows:

“wherein said identifying code is operable to compare a file name, and a storage location of said computer file with a corresponding file name, and storage location of said specific known malware free computer file” (see this or similar, but not necessarily identical language in the independent claims).

Applicant respectfully asserts that Le Pennec discloses that VC Cache Table comprises a table with a list of records having a File section (Col. 16, lines 1-9). Further,

Le Pennec discloses that the File section contains a “File\_\_Name,” which “is the name of the file... [and is] the explicit file name,” a “File\_\_Type,” which “is the type of the file,” a “File\_\_Size,” which “is the size of the file,” and a “File\_\_CRC,” which “is the CRC (a file signature) of the file” (Col. 16, lines 12-21). In addition, Le Pennec discloses that “[t]he combination of File\_\_Name and File\_\_Type may identify in a unique way one file,” and “[i]f multiple files have the same name and type...each one of these said file may then be differentiated in a unique way by its file size” (Col. 16, lines 22-26 – emphasis added). Furthermore, Le Pennec discloses that “[i]f multiple files have the same name, type, and size, each one of these said file is then differentiated in a unique way by its file CRC which is a file signature (hashing)” (Col. 16, lines 29-31 – emphasis added).

However, the mere disclosure of identifying and differentiating files based on combinations of file name, file type, file size and file signature, as in Le Pennec, simply fails to even suggest a technique “wherein said identifying code is operable to compare a file name, and a storage location of said computer file with a corresponding file name, and storage location of said specific known malware free computer file” (emphasis added), as claimed by applicant. Clearly, the mere suggestion of using a file signature to identify and differentiate between files with the same name, type, and size, as in Le Pennec, clearly fails to even suggest using a “file name, and a storage location,” in the manner as claimed by applicant.

Again, the foregoing anticipation criterion has simply not been met by the above reference, as noted above. Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Still yet, applicant brings to the Examiner’s attention the subject matter of new Claims 25-30 below, which are added for full consideration:

“wherein said storage location of said computer file is a known storage location or a relative storage location” (see Claim 25);

“wherein said relative storage location is determined by a configuration setting” (see Claim 26);

“wherein said corresponding file name, and storage location of said specific known malware free computer file are stored within a malware signature file” (see Claim 27);

“wherein said stored attributes of said specific known malware free computer file are stored within a malware signature file” (see Claim 28);

“wherein further malware detection processing is performed upon said computer file if said computer file is not identified as potentially being one specific known malware free computer file from among a plurality of specific known malware free computer files” (see Claim 29); and

“wherein said identifying code, said determining code, said comparing code, and said further malware detection processing are performed by a malware scanner” (see Claim 30).

Again, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested. Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The

Commissioner is authorized to charge any additional fees or credit any overpayment to  
Deposit Account No. 50-1351 (Order No. NAIIP491/03.025.01).

Respectfully submitted,  
Zilka-Kotab, PC.

/KEVINZILKA/

Kevin J. Zilka  
Registration No. 41,429

P.O. Box 721120  
San Jose, CA 95172-1120  
408-505-5100